

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Levy(F)	Team: Team # 1	CCRB Case #: 201405351	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/01/2014 10:40 PM, Wednesday, 06/11/2014 12:00 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 12/1/2015	EO SOL 12/1/2015	
Date/Time CV Reported Mon, 06/02/2014 1:18 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/02/2014 1:18 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Radoslaw Terepka	14042	926200	075 PCT
2. SSA Robert Martinez	01369	922716	075 PCT
3. POM David Pralgo	23516	916465	075 PCT
4. POM Todd Hansen	13329	949083	075 PCT
5. POM David Grieco	18061	940216	075 PCT
6. POM Anthony Donaldson	08286	941671	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gregg Minardi	04986	940475	075 PCT
2. POM Christopher Walsh	23571	951413	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM David Grieco	Abuse: On June 1, 2014, PO David Grieco entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Todd Hansen	Abuse: On June 1, 2014, PO Todd Hansen entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Todd Hansen	Abuse: On June 1, 2014, PO Todd Hansen damaged § 87(2)(b)'s property.	§ 87(2)(b)
D.POM David Pralgo	Abuse: On June 11, 2014, PO David Pralgo entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
E.POM David Pralgo	Force: On June 11, 2014, PO David Pralgo pointed his gun at § 87(2)(b)	§ 87(2)(b)
F.POM Todd Hansen	Abuse: On June 11, 2014, PO Todd Hansen entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
G.POM Radoslaw Terepka	Abuse: On June 11, 2014, PO Radoslaw Terepka entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)		

Case Summary

On June 1, 2014, and June 11, 2014, § 87(2)(b) and an individual known as '§ 87(2)(b)' were at § 87(2)(b)'s "clubhouse" located at § 87(2)(b) in Brooklyn, on the corner of § 87(2)(b) § 87(2)(b). On June 1, 2014, at approximately 10:40 p.m., § 87(2)(b) was walking his girlfriend out of the back garage door of the location when PO David Grieco and PO Todd Hansen of the 75th Precinct drove up to the location. § 87(2)(b)'s girlfriend left and § 87(2)(b) ran into the location through the garage door, which he closed behind him. PO Hansen and PO Grieco both entered the location without justification (**Allegations A and B**). PO Hansen remained in the garage while PO Grieco searched the location for § 87(2)(b) without justification (**Allegation A**). PO Hansen moved items around in the garage and used the back seat of a minivan to prop open the garage door, causing a dent to the door and damage to the seat (**Allegations B and C**). PO Grieco and PO Hansen left the location without apprehending § 87(2)(b) or interacting with him or § 87(2)(b). Security footage from the location captured the entire incident (encl. 25A-J).

On June 11, 2014, at 11:54 p.m., PO David Pralgo of the 75th Precinct entered the front of the location through a side door without justification (**Allegation D**) and pointed his gun at § 87(2)(b) (**Allegation E**). PO Hansen also entered the location without justification shortly after PO Pralgo (**Allegation F**). Additional members of the 75th Precinct Anti-Crime team came to the location and entered as backup at the request of PO Pralgo and PO Hansen. PO Radoslaw Terepka and PO Pralgo searched the cabinets and a pool table located in the location, respectively (**Allegations G and D**). The officers left without apprehending § 87(2)(b) or '§ 87(2)(b)'. Security footage from the location captured the entire incident (encl. 25A-J).

§ 87(4-b) § 87(2)(g)

Mediation, Notice of Claim, and Criminal Histories

Because of the property damage allegation, this complaint was not eligible for mediation. § 87(2)(b) had not filed a Notice of Claim regarding this incident as of December 12, 2014, more than four months beyond the 90-day filing deadline (encl. 26). § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3).
- There are two separate, unrelated cases involving PO Hansen, PO Pralgo, PO Terepka, PO Donaldson, PO Minardi, and Sgt. Martinez that are still under investigation. Case number 201405564, which has a date of occurrence of June 5, 2014, includes entry and search allegations. Case number 201405776 involves all of the aforementioned officers at an incident occurring approximately 50 minutes after the June 11, 2014 incident in this case.
- PO Hansen has been a member of the service for four years and this is his seventh CCRB complaint (21 prior allegations). There is one substantiated CCRB allegation against him. In that substantiated case, case number 201211134, an allegation of the seizure and search of a cell phone was substantiated; § 87(4-b) § 87(2)(g)
- § 87(2)(b) Charges were recommended and the case is assigned to the Administrative Prosecution Unit (encl. 2D-E).
- PO Grieco has been a member of service for eight years and this is his 16th CCRB complaint (30 prior allegations). There are two substantiated CCRB allegations against him. In

substantiated case number 201111996, an entry allegation was substantiated and command discipline was recommended. PO Grieco received instructions. In substantiated case number 201207718, a stop allegation was substantiated and charges were recommended. The case is with the Administrative Prosecution Unit. The one entry allegation was closed as complainant unavailable (encl. 2A-C).

- PO Pralgo has been a member of the service for 19 years and this is his 24th CCRB complaint (52 prior allegations). There is one substantiated CCRB allegation against him (case number 200905144: physical force, NYPD declined to prosecute) (encl. 2F-I).
- PO Terepka has been a member of the service for 14 years and this is his 13th CCRB complaint (31 prior allegations). There are no substantiated CCRB allegations against him (encl. 2J-L).
- PO Donaldson has been a member of the service for eight years. There are no substantiated CCRB allegations against him (encl. 2M-N).
- Sgt. Martinez has been a member of the service for 16 years and there are six substantiated CCRB allegations against him. In substantiated case number 200205713, a discourtesy allegation was substantiated, charges were recommended, and Sgt. Martinez received Command Discipline – A. In substantiated case number 200704280, a physical force and a threat of force allegation were substantiated, charges were recommended, and the NYPD declined to prosecute. In substantiated case number 201101407, a stop and a frisk allegation were substantiated, command discipline was recommended, and Sgt. Martinez received instructions. In substantiated case number 201310387, a physical force allegation was substantiated and charges were recommended. The case is with the Administrative Prosecution Unit (encl. 2O-R).

Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

Allegation A – Abuse of Authority: On June 1, 2014, PO David Grieco entered and searched § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: On June 1, 2014, PO Todd Hansen entered and searched § 87(2)(b) in Brooklyn.

Allegation C – Abuse of Authority: On June 1, 2014, PO Todd Hansen damaged § 87(2)(b)'s property.

It is undisputed, based on both testimony and video footage, that PO Hansen and PO Grieco entered the rear garage door of the location after ducking under and holding open the garage door on § 87(2)(b) that § 87(2)(b) attempted to close to prevent them from entering and that PO Grieco pursued § 87(2)(b) through several rooms inside the location (encl. 25A-J). It is also undisputed that they did not have a warrant (encl. 30A). It is undisputed that PO Hansen pulled a spare rear bench of a minivan under the garage door.

§ 87(2)(b) stated that after walking a female friend outside, he began to close the garage door when an officer grabbed at him. He initially believed that someone was breaking in. § 87(2)(b) pulled away and ran to the room with the pool table, and was followed by an officer with a flashlight. § 87(2)(b) did not state he had a gun. The garage door was bent as a result of being propped open with the bench of a minivan by PO Hansen during the incident (encl. 6A-G).

PO Hansen and PO Grieco disagreed on what they observed and the basis for their pursuit of § 87(2)(b). PO Hansen stated that they happened upon § 87(2)(b) while on patrol. PO Hansen stated that when § 87(2)(b) saw the officers, he grabbed his waistband and said, “Oh, shit,” before running into the location through the garage door. This and § 87(2)(b)’s prior criminal history caused PO Hansen to believe that § 87(2)(b) was armed. PO Hansen stated that § 87(2)(b) is known to carry guns and had been arrested for a shooting, which is corroborated by the DD5 of § 87(2)(b)’s arrest (encl. 23; 24B), though PO Hansen could not say whether § 87(2)(b) had ever been observed with a gun. PO Hansen could not identify at what point in the surveillance video § 87(2)(b) grabbed his waistband after viewing the video from more than 30 seconds prior to the officer’s arrival to the point where the officers entered the garage. On the video, PO Hansen can be seen propping the garage door open with the back seat of a minivan. PO Hansen noted that he used the minivan bench to prop open the door to facilitate possible reentry into the location (encl. 8A-D).

PO Grieco stated that they specifically sought out § 87(2)(b) at that location because Sgt. Martinez had called PO Hansen and informed him of an earlier incident involving § 87(2)(b) riding a motorcycle in a dangerous manner, information that PO Hansen then relayed to PO Grieco. PO Grieco believed that § 87(2)(b) could be found there because he had prior knowledge that § 87(2)(b) uses the space as a mechanic’s shop. PO Grieco did not have a belief specific to this incident that § 87(2)(b) was armed, though he mentioned at one point that § 87(2)(b) fleeing into the garage when the officers arrived raised his suspicion that he might. PO Grieco was aware that § 87(2)(b) had possessed a firearm in the past (encl. 22A-C).

The grabbing of the waistband and flight can give rise to reasonable suspicion to stop an individual. People v. Bachiller, 2012 N.Y. Slip. Op. 1923 (4th Dept. – 2012) (encl. 1GG-HH). An individual cannot defeat an arrest that has begun in a public place by running into a private location. People v. Skinner, 284 A.D.2d 906 (4th Dept. – 2001) (encl. 1LL). However, founded suspicion and flight does not give rise to probable cause for arrest, which would be required in order to pursue an individual into a location on the basis of the officer’s immediate observations. People v. Peters, 28 Misc.3d 1225(A) (Crim. Ct. Kings Cty. – 2013) (encl. 1II-KK).

The police may enter a dwelling to make a warrantless arrest inside a person’s home if exigent circumstances exist. The following six factors are considered when determining whether exigent circumstances exist: “(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause . . . to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry.” People v. McBride, 14 N.Y.3d 440, 446 (2010) (encl. 1A-G). An individual’s private place of business that is not open to the public has Fourth Amendment protections akin to those of a dwelling. People v. Ost, 121 A.D.2d (App. Div. 2nd Dep’t – 1986) (encl. 1H-I).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: On June 11, 2014, PO David Pralgo entered and searched § 87(2)(b) in Brooklyn.

Allegation F – Abuse of Authority: On June 11, 2014, PO Todd Hansen entered § 87(2)(b) in Brooklyn.

Allegation G – Abuse of Authority: On June 11, 2014, PO Radoslaw Terepka entered and searched § 87(2)(b) in Brooklyn.

It is undisputed, based on the video footage, that PO Hansen and PO Pralgo entered the front room of the location via a side door, that PO Terepka and other officers arrived and entered the location a short time thereafter, that PO Terepka entered and searched the location, that PO Pralgo reached into the pocket of the pool table, and that officers stood in the location for a period in excess of 20 minutes without taking any other substantial action (encl. 25A-J). The video footage also shows that the lights inside the front room of the location were on, that § 87(2)(b) opened the door while PO Pralgo was standing at the door, that PO Hansen looked at the back garage entrance of the building before entering, and that the officers left the side door of the location open when they left. It is undisputed that there was no search warrant (encl. 30EEE).

§ 87(2)(b) stated that a friend he knows only as § 87(2)(b) went to side door of the front room to go get gas. § 87(2)(b) immediately returned and told § 87(2)(b) that officers were at the door. § 87(2)(b) went to the doorway of the front room and PO Pralgo pointed his gun at him. § 87(2)(b) and § 87(2)(b) went to a back room and § 87(2)(b) did not see what the officers did until he reviewed the video footage (encl. 6I-L).

PO Pralgo and PO Hansen both stated that they entered the side door because they believed that there was a burglary in progress. They both believed the location to be abandoned and saw movement inside (encl. 10A-D and 8A-D). PO Terepka stated that he searched the cabinets in the location for weapons or anything the individual who ran into the building may have left (encl. 16A-C).

PO Pralgo and PO Hansen both denied knowing that the storefront entrance and the garage entrance to § 87(2)(b) were the same location and PO Pralgo denied having any prior knowledge of § 87(2)(b). However, based on the video footage from June 1, 2014, PO Hansen watched as Sgt. Martinez and PO Grieco looked for § 87(2)(b) at the storefront entrance on § 87(2)(b) after he and PO Grieco saw § 87(2)(b) run in through the garage entrance on § 87(2)(b). PO Pralgo also remained at the garage door while PO Hansen, PO Grieco, and Sgt. Martinez went to look at the front of the building (encl. 25A-J). PO Terepka stated that he knew the front and back entrances went to the same location and that dogs, firearms, and stolen motorcycles were kept

inside. PO Pralgo stated that PO Hansen informed him after the incident that the front and back of the location were connected. PO Hansen and PO Terepka both stated that they had prior knowledge of § 87(2)(b) and his criminal history.

Officers may enter a private location without a warrant or consent if there is an emergency. People v. Dallas, 8 N.Y.3d 890, 891 (2007) (encl. 1K-L). They must have reasonable grounds to believe that there is an immediate need for their assistance in the protection of life or property in the location, without a motivation to arrest an individual or seize evidence. Id. Burglary requires that an individual be in a building without permission and authority and with the intent to commit a crime therein. N.Y.S. Penal Law, Section 140.20 (encl. 1MM).

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Force: On June 11, 2014, PO David Pralgo pointed his gun at § 87(2)(b)

It is undisputed that PO Pralgo pointed his gun at § 87(2)(b) after § 87(2)(b) approached from a back room that PO Pralgo could not see as PO Pralgo following § 87(2)(b) into the location (encl. 25A-J).

An officer may point his gun at an individual if he reasonably fears for his safety. Police Department v. Gliner, OATH Index No. 955/00 (encl. 1M-FF).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

[illegible]

Investigator:	<u>Jacqueline Levy</u>	
Signature	Print	Date
Supervisor:		
Title/Signature	Print	Date
Reviewer:		
Title/Signature	Print	Date
Reviewer:		
Title/Signature	Print	Date